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Docket No. CLT-100
Serial No. 09/629,241Remarks

Claims 14-16 and 18-32 are pending in the subject application. Accordingly, claims 14-16, and 18-32 are currently before the Examiner for her consideration. Favorable consideration of the pending claims is earnestly solicited.

Claims 14-16, 18-20, 24-27, and 30-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,463,189 to Deneke *et al.* (Deneke) in view of U.S. Patent 2,109,213 to Fearing in view of U.S. Patent 5,141,185 to Rumbold *et al.* (Rumbold) and further in view of U.S. Patent 4,538,782 to Kirschenbaum. The applicant respectfully traverses this grounds of rejection because the cited references, alone or in combination do not disclose or suggest the unique and advantageous method claimed by the current applicant. The applicant concedes that Deneke refers to "a first electrical cable 12 that is secured in a longitudinal direction along a structural member 14 by a conventional staple 15." (Col. 5, lines 36-38). However, this is nothing more than stapling an electrical cable to a wooden structural member. There would be no motivation to use such a staple with a metal stud as the staple would either not penetrate the metal or not hold the wire securely to the metal stud. Even the suggestion on pages 3-4 of the Office Action to substitute a clip as taught by the Fearing reference in place of the staple of Deneke does not teach the subject method for securing electrical wiring to a metal framing member with a wiring clip that has a first arm located at a first end of a main body, comprising a first attachment means, and a second arm located at a second end of the main body, comprising a second attachment means.

First, the Fearing reference teaches a clip that holds "a wire 6 to a relatively thin support 7 by slipping the bowed portion 3 [of the clip] over the wire and then pushing the clip over the edge of the support...." (Col. 2, lines 5-8). Then "the guide portion 4 helps to guide the clip over the support ... and the ends of the prongs 5 'dig' into the support to prevent the clip from jarring loose...." (Col. 2, lines 8-12). The applicant respectfully submits that there is no motivation to use the clip as taught by the Fearing reference on the wooden structural member of Deneke because the U-shaped body as taught by the Fearing reference does not lie flat on the side of the support 7, (see Fig 3; col.1, lines 32-33), and would interfere with attaching drywall to the side of the wooden structural member. Also, the clip taught in the Fearing reference would not glide over the wooden structural support as the tip of the outwardly bowed portion 3 would dig into the wood rather than glide. In addition,

neither the staple of Deneke nor the clip of Fearing could secure electrical wiring to a metal framing member having a face and two sides. Specifically, referring to the clip of Fearing, the U-shaped body has two legs; leg 1 has an outwardly bowed portion 3 to fit over and hold in place a wire, and leg 2 has a pair of prongs 5 that engages the support 7 by digging into the back of the support 7. (Col. 1, line 33 – Col. 2, line 12). The applicant respectfully submits that leg 2 and prong 5 of the Fearing clip would not attach to a metal framing member having a face and two sides because there is no back of the metal stud for leg 2 to press against and prongs 5 to dig into. In addition, leg 1 of Fearing is not an “arm” as claimed in the subject claims, but, rather, is part of the body of the clip.

Moreover, with respect to Deneke in view of Fearing in view of Rumbold, the method of securing electrical wiring to a two-by-four metal framing member taught in Rumbold teaches “a wiring clip for stud frame dry wall construction [that] holds various forms of wiring a required distance from the nearest edge or face of the stud to which the dry wall is secured” (Col. 2, lines 14-17). Although Rumbold teaches a wire clip strap form for metal studs (see col. 2, lines 18-19), the strap form only clips around the wires – not the stud. In fact, “[i]n order to secure the clip in place the short leg 131 is provided with two holes seen at 148 and 149 which accommodate the sheet metal screws 150 and 151, respectively seen in Fig. 12.” (Col. 6, lines 48-51). In addition, the clip secures the wires in place once “the clip is secured to the face 34 of the stud 33 and the wiring runs are positioned against the interior of the strut 134.” (Col. 6, lines 58-60). Only then is the “arm 137 ... bent to insert the tab 138 through the slot 142 and such tab is then bent at right angles to hook or lock the arm in the closed position.” (Col. 6, lines 60-63). Therefore, in contrast to the statement on page 8 of the Office Action that Rumbold does not teach away from incorporating a first and second arm, as the Rumbold references teaches a clip using the first end of a strip of metal as a short leg (3) to attach to the metal stud and second end of the strip of metal as an arm 137 to secure the wire, there would be no motivation to incorporate a second leg to secure the clip to the metal stud. Such a modification would alter the basic operating principle of the Rumbold clip. Furthermore, the Office Action does not provide a description of how such a second leg would be incorporated.

In reference to Kirschenbaum, the plastic wiring clip 10 attached to a framing member 11 by a first arm 35 and a second arm 31 does not position the electrical wiring within the wire receiving area. Kirschenbaum teaches a method where “a supporting clamp [10] slidably mounted on a typical cross-member [11] of an equipment mounting frame or cabinet ... [with] ... a pair of jaws [16,17]

[containing] slots [22,23] adapted to receive and clasp a cable or cables." (Col.1, lines 48-53). First, the wire receiving area (22,23) does not secure the cables when the supporting clamp is attached to the mounting frame. Second, the cables are secured in a direction perpendicular to the frame (see col. 3, lines 5-9) by being "forced between nubs 24 and 25 and 26 and 27..." (Col.2, lines 52-54). Thus, as in the Rumbold reference, the wire clip is separate from the metal framing member attachment means. In addition, the applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wiring clip of Fearing to locate leg 1, further modified to comprise an attachment means, as to be oppositely disposed about the wire receiving area 3' from leg 2 because the modification would not permit the clip of Fearing to be pushed over the edge of the support. (See Col. 2, lines 5-10).

The applicant respectfully submits that neither Rumbold nor Kirschenbaum teach a method similar to the present invention for securing an electrical cable with a securing means that clips around the sides of a metal stud even if one skilled in the art chose to substitute the staple referred to in Deneke with the Fearing clip composed of alternate materials. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection of claims 14-16, 18-20, 24-27, and 30-32 under 35 U.S.C. §103(a).

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deneke in view of Fearing in view of Rumbold in view of Kirschenbaum, and further in view of U.S. Patent 3,508,730 to Knezo, Jr. (Knezo). The limitations of Deneke, Fearing, Rumbold, and Kirschenbaum references have been discussed above with respect to the rejection of claim 14, from which claims 21-23 depend. The Knezo reference does not cure these defects. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection of claims 21-23 under 35 U.S.C. §103(a).

Claims 28 and 29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,626,316 to Smigel *et al.* (Smigel) in view of Kirschenbaum. The Smigel *et al.* reference does not teach "attaching the first arm (12) of the clip (10) to a first side (93) of the framing member". Gauge flange (12) does not attach the clip (10) to the framing member. Rather, gauge flange (12) is overlapping the face (93) and positioning the wiring the required distance from the nearest edge. (See col. 5, lines 19-22). For attachment of the clip, the Smigel *et al.* reference teaches "fasteners (56) and (57)" and "sheet metal screws . . . to secure the clip to the side of a metal

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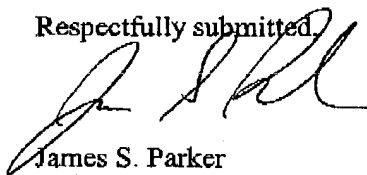
stud". (See col. 3, lines 61-65). Other means for attachment of the clip to a metal stud taught by the Smigel *et al.* reference are shown in Figures 6 and 7 and described at col. 4, line 33 through col. 5, line 62. In discussing mounting of the clip of Figure 5 to the exterior of the side of a wood or metal stud, fasteners are taught and punched or pre-punched holes in the metal stud are taught. There is no teaching or suggestion of the invention as claimed in the subject invention. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

In view of the foregoing remarks and amendments to the claims, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

As this Office Action is not FINAL, the applicants request the Examiner to call the undersigned prior to the issuance of a Final Office Action in order to schedule a telephonic interview to discuss the basis of the rejections.

Respectfully submitted,



James S. Parker

Patent Attorney

Registration No. 40,119

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: Saliwanchik, Lloyd & Saliwanchik
A Professional Association
2421 NW 41st Street, Suite A-1
Gainesville, FL 32606-6669

JSP/sjk